



Paper No. 22

JOHN H SHERMAN
LEGAL DEPARTMENT
INTERMEC TECHNOLOGIES CORPORATION
550 2ND STREET S E
CEDAR RAPIDS IA 52401

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OFFICE OF PETITIONS

In re Application of
Heinrich, et al.
Application No.: 09/382,382
Filed: August 24, 1999
Attorney Docket No.: YO995-218
For: RADIO FREQUENCY IDENTIFICATION
SYSTEM WRITE BROADCAST CAPABILITY

LETTER

A reconsideration petition under 37 CFR 1.47(a) was received in the United States Patent and Trademark Office (Office) on October 21, 2003.¹

On July 1, 2003, the Office mailed a Notice of Allowance and Fee(s) Due requiring petitioner to submit required fees within three (3) months of the Notice's mail date. A review of Office financial records for this application reveals that the issue fee and publication fees have not been paid. In previous correspondence, petitioner stated that a RCE would be filed in response to the July 1, 2003 Notice. The Office has no record of receiving a RCE prior to the October 1, 2003 deadline for response to the July 1, 2003 Notice. Therefore, **this application is properly held abandoned as of October 2, 2003.**

Under the circumstances of this application, petitioner must file a petition to revive under 37 CFR 1.137 and pay the proper petition fee within **ONE (1) month** of this decision before the petition under 37 CFR 1.47 may be addressed on its merits. No extensions of time are permissible. Unless petitioner can demonstrate that petitioner was "unavoidably" prevented from submitting a proper reply to the Notice, a petition under 37 CFR 1.137(b) is suggested. The October 21, 2003 reconsideration petition will remain in the file until such time as petitioner has filed a grantable petition to revive under 37 CFR 1.137.

¹ Any future reconsideration petition will be treated under 37 CFR 1.183 as a request to waive 37 CFR 1.67. Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating the inability to locate an inventor for signature of a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603. While petitioner's September 28, 2003 petition regarding the inability to locate Mr. Cesar was treated under 37 CFR 1.47(a), petitioner is informed that the same standard is applied in a 37 CFR 1.83 waiver of 37 CFR 1.67 petition. Therefore, the petition decision, while mistitled, is legally sound.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions -- E. Shirene Willis

Telephone inquiries should be directed to the undersigned at (703) 308-6712.



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions